

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

*IN RE NYC BUS TOUR ANTITRUST
LITIGATION*

Master Case File No.
13-CV-0711 (ALC)(GWG)
RELATED TO ALL CASES

ECF Case

JURY TRIAL DEMANDED

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR APPROVAL OF CLAIMS STIMULATION PLAN**

On October 21, 2014, this Court entered an Order granting final approval of the Settlement that Plaintiffs Natasha Bhandari and Tracey L. Nobel (“Class Plaintiffs”), individually and on behalf of the Class of purchasers in this action (the “Class”), entered into with defendants Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights LLC and City Sights Twin, LLC (“Defendants”) (Dkt. # 122). Judgment is now final. As Class Plaintiffs’ Counsel informed the Court during the fairness hearing on October 20, 2014, we planned to work with the Claims Administrator to develop a plan to increase awareness among the Class of the Settlement and to stimulate the filing of additional claims before the claims deadline on January 19, 2015. We have now done so. Plaintiffs now respectfully move the Court for an order approving the Claims Stimulation Plan discussed below and outlined in the Declaration of Shannon R. Wheatman, Ph.D. and accompanying exhibits (“Wheatman Declaration”).

DISCUSSION

Following this Court’s Order preliminarily approving the Settlement on June 16, 2014, Plaintiffs worked with Rust Consulting, appointed by this Court to serve as the Claims Administrator, to distribute notice to the Class in the manner outlined in the Declaration of Shannon R. Wheatman, Ph.D. of Kinsella Media (“KM”), submitted in support of Plaintiffs’ Motion for Preliminary Approval of the Settlement (Dkt. # 105). As stated in the October 10, 2014 Supplemental Declaration of Milan Mader, submitted in advance of the fairness hearing, Rust Consulting mailed 37,572 Postcard Notices and 343,851 Email Notices to potential Class members pursuant to the notice plan (Dkt. # 120). As of October 10, 2014, Rust Consulting had received 67,429 Claim Forms representing a total of 186,277 tickets (*id.*), or over \$3.7 million worth of claims against the Gross Settlement Fund.

Plaintiffs propose providing supplemental notice to potential Class members for the purpose of stimulating additional claims in advance of the January 19, 2015 claims deadline (“Claims Stimulation Plan”). As outlined in the attached Wheatman Declaration, the Claims Stimulation Plan will have two components. First, reminder Email or Postcard Notices will be sent to known Class members who have yet to submit claims. Wheatman Decl. ¶ 6. Copies of these notices are attached as Exhibit 1 to the Wheatman Declaration. *Id.*, Ex. 1. Second, a paid and earned media notice program will be implemented using highly targeted Internet advertising to reach potential Class members. *Id.* ¶¶ 7-8. Specifically, the media campaign will feature banner ads on relevant websites and related behavioral targeting, email and phone outreach to relevant print publications and websites, sponsored advertising on Facebook and Twitter, and keyword search advertising. *Id.* As stated in the Wheatman Declaration, this type of supplemental notice program adheres to the standards used by KM to generate awareness and stimulate claims in advance of the approaching claims deadline. *Id.* ¶ 9.

CONCLUSION

For the foregoing reasons, Class Plaintiffs respectfully request that the Court approve the Claims Stimulation Plan. The proposed Approval Order is attached to the Notice of Motion as Exhibit 1.

DATED: November 20, 2014

Respectfully submitted,

megan easley

William Christopher Carmody (WC8478)
Arun Subramanian (AS2096)
Seth Ard (SA1817)
Mark Howard Hatch-Miller (MH4981)
Megan O'Hara Easley (ME7715)
SUSMAN GODFREY LLP
560 Lexington Avenue, 15th Floor
New York, New York 10022-6828
Phone: (212) 336-8330
Fax: (212) 336-8340
Email: bcarmody@susmangodfrey.com
asubramanian@susmangodfrey.com
sard@susmangodfrey.com
mhatch-miller@susmangodfrey.com
measley@susmangodfrey.com

Drew D. Hansen (*pro hac vice*)
SUSMAN GODFREY LLP
1201 Third Avenue, Suite 3800
Seattle, Washington 98101-3000
Phone: (206) 373-7384
Fax: (206) 516-3883
Email: dhansen@susmangodfrey.com

CERTIFICATE OF SERVICE

On November 20, 2014, I caused copies of the Plaintiffs' Memorandum in Support of Motion for Preliminary Approval of Settlement with Defendants to be served on the following counsel via electronic mail:

Michael P.A. Cohen
Paul Hastings LLP
875 15th Street N.W.
Washington, DC 20005
michaelcohen@paulhastings.com

Attorneys for Defendants Twin America, LLC, CitySights LLC, and City Sights Twin LLC

Andrew A. Ruffino
Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
aruffino@cov.com

Thomas Barnett
Covington & Burling LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
tbarnett@cov.com

Attorneys for Defendants Coach USA, Inc. and International Bus Services, Inc.

DATED: November 20, 2014
New York, New York



[Name]